IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11367 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA sd/-
and
HON'BLE MR.JUSTICE SHARAD D.DAVE sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HINDUSTAN COCA-COLA BEVERAGES PVT LTD

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 11367 of 2002
NANAVATI ASSOCIATES for Petitioner No. 1-2
MR MALKAN for Respondent No. 1-5

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE SHARAD D.DAVE

Date of decision: 04/11/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

While issuing Rule on this petition on 15.1.2003, by way of interim relief, the direction was issued to the concerned Authority to consider the provisions of the

Sub-Rule (2) of Rule 57Q of the Central Excise Rule as well as Circular dated 3.1.1996 and to revise its own order challenged in this petition and place its report on the record of this petition.

In accordance with the aforesaid interim direction, issued by the Division Bench of this Court on 15.1.2003, the Commissioner, Central Excise, Ahmedabad-III, passed an order in original on 9.4.2003 and granted relief as prayed for in the petition. The order dated 9.4.2003 is placed on record at Annexure:X along with Affidavit, filed by the petitioner. In view of this, nothing more survives in this matter and the matter was required to be disposed of. However, learned Senior Advocate Shri Nanavati for the petitioner submitted that one more prayer made in the petition by the petitioner that the respondents be directed to pay interest on such amount from 1.3.1998 at the rate applicable to the refund of duty u/s.11-BB of the Central excise Act, 1944, remains.

Till the question of refund of duty is decided, interest on it cannot be ordered. For that the petitioner has to approach the concerned Authority with proper representation.

In view of the above, Shri Nanavati for the petitioner seeks permission to withdraw this petition with liberty to approach the concerned Authority with proper representation with a further request that his representation be decided at the earliest. If such representation is made within a fortnight from today then the same may be decided in accordance with law by the concerned Authority, as early as possible, preferably within 4 months from the date of receipt thereof.

With this observation and direction, this petition is disposed of as withdrawn. Rule is discharged subject to aforesaid direction. No order as to costs.

(B.J.Shethna, J.)

Date : November 04, 2004

(Sharad D.Dave, J.)

sas